REMARKS

This response is intended as a full and complete response to the Advisory Action mailed February 26, 2007.

Claims 70-168 are pending in the application of which claims 100-168 are rejected and claims 70-99 withdrawn. Claims 100, 116-118, 121, 149, 156, 158, 159, 163, 166 and 168 are amended. Claim 140 and 152 are cancelled.

In view of the above amendments and the following discussion, Applicants submit that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 and 103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response including amendments.

Applicants traverse all of the rejections in the Office Action mailed December 1, 2006 and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

I. REJECTIONS UNDER 35 U.S.C. 102

The Office Action rejected claims 121-124, 127, 131-136, 141, 144-146, 149, 151, 153, 155, 156, 158, 163 and 166-168 under 35 U.S.C. §102(a/e) as being anticipated by U.S. Patent No. 6,088,722 to Herz et al. ("Herz"). Applicants respectfully traverse the rejection.

To anticipate a claim, the reference must teach every element of the claim. Herz fails to teach every element of each claim for at least the following reasons. For example, Herz fails to teach erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information.

Specifically, Applicants' independent claim 121 recites "A method of profiling iTV users, comprising: providing profiles on a plurality of iTV programs; monitoring which of said plurality of iTV programs a user accesses; developing a profile of the user based only on the profiles of the iTV programs accessed by the user; and erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information." Consequently, in an exemplary embodiment of the present invention the privacy of a user may be protected because it may not be possible to match users with particular programs viewed or Web sites visited (i.e. user-requested content information). (See Applicants' specification, p. 26, ll. 16-20.) Independent claims 149, 156, 158, 163, 166 and 168 contain similar limitations.

Herz fails to teach or suggest erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information. The Examiner concedes this in the Office Action. (See Office Action, p. 19, ll. 15-16.) However, the Examiner takes Official Notice and alleges that erasing records is well known in the art. (See *Id.* at ll. 16-17.) The Applicants respectfully disagree.

Under MPEP 2144.03, the board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies. In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), emphasis added. The Applicants respectfully submit that it may not be well known to combine the allegedly well known apparatuses and/or methods with other apparatuses and/or methods recited in the respective claims or in other claims from which the respective claims may depend.

For example, erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information in combination with providing profiles on a plurality of iTV programs, monitoring which of said plurality of iTV programs a user accesses and developing a profile of a user based only on the iTV interactions may not be well known. To illustrate, some may permanently save the

gathered user-requested content information to serve as a back-up where redundancy, rather than privacy, is a priority.

In response, the Examiner alleges U.S. Patent 5,801,747, issued to Bedard on September 1, 1998, hereinafter "Bedard" reads on the limitation of erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information. The Applicants respectfully disagree and submit that Bedard actually teaches away from the Applicants' invention. Bedard only teaches that a portion of information of a viewer profile array is removed if necessary to create room for a new channel. (See Bedard, col. 5, ll. 16-33.) Furthermore, Bedard specifically teaches storing the viewer profile array so that it may be made available to interested broadcasters. (See *Id.* at col. 8, ll. 16-21.) Bedard continues to teach that the broadcasters in turn use the information to more appropriately target certain types of programming and commercials to certain individuals or communities. (See *Id.*, emphasis added.) In other words, Bedard teaches that a viewer may be matched to the program watched information stored in the viewer's profile array, thereby, compromising the viewer's privacy. Therefore, unlike the Applicants' invention that protects a user's privacy by preventing a user to be matched to the gathered user-requested content information, Bedard specifically teaches away from preserving a user's privacy because Bedard teaches storing the viewer profile and associated information so that the information may be given to broadcasters for targeting "certain individuals". Therefore, independent claim 121 is clearly patentable over Herz and Bedard.

Independent claims 149, 156, 158, 163, 166 and 168 contain similar limitations and are patentable over Herz under §102 for at least the same reasons that claim 121 is patentable over Herz under §102. Claims 122-124, 127, 131-136, 141, 144-146, 151, 153, 155 and 167 depend, directly or indirectly, from claims 121, 149 and 166, respectively, and, thus, inherit the patentable subject matter of claims 121, 149 and 166, while adding additional elements. Therefore, claims 122-124, 127, 131-136, 141, 144-146, 151, 153, 157 and 167 are also patentable over Herz under §102. Therefore, the rejection should be withdrawn.

II. REJECTIONS UNDER 35 U.S.C. 103

A. Claims 100-103, 108-110, 116, 117, 129, 130, and 150

The Office Action rejected claims 100-103, 108-110, 116, 117, 129, 130, and 150 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 5,659,350 to Hendricks et al. ("Hendricks"). Applicants respectfully traverse the rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. See MPEP §2143.

The Office Action failed to establish a *prima facie* case of obviousness, because the combination of Herz and Hendricks fails to teach or suggest all the claim elements for at least the following reasons. For example, the combination fails to teach erasing the gathered user-requested content information from iTV interactions after developing the profile of the user. Specifically, Applicants' independent claim 100 recites "A method for profiling iTV user, comprising: gathering user-requested content information from iTV interactions; correlating content-associated profile information from a rating service with the user-requested content information; developing a profile of a user based on developing a profile of a user based only on the iTV interactions; and erasing the gathered user-requested content information from iTV interactions after developing the profile of the user."

As discussed above, Herz fails to teach or suggest erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information. The Examiner concedes this in the Office Action. (See Office Action, p. 19, ll. 15-16.) However, the Examiner takes Official Notice and alleges that erasing records is well known in the art. (See *Id.* at ll. 16-17.) The Applicants respectfully disagree.

Under MPEP 2144.03, the board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies. In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), emphasis added. The Applicants respectfully submit that it may not be well known to combine the allegedly well known apparatuses and/or methods with other apparatuses and/or methods recited in the respective claims or in other claims from which the respective claims may depend.

For example, erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information in combination with providing profiles on a plurality of iTV programs, monitoring which of said plurality of iTV programs a user accesses and developing a profile of a user based only on the iTV interactions may not be well known. To illustrate, some may permanently save the gathered user-requested content information to serve as a back-up where redundancy, rather than privacy, is a priority.

In response, the Examiner alleges U.S. Patent 5,801,747, issued to Bedard on September 1, 1998, hereinafter "Bedard" reads on the limitation of erasing all of the gathered user-requested content information from iTV interactions after developing the profile of the user, such that the user may not be matched to the gathered user-requested content information. The Applicants respectfully disagree and submit that Bedard actually teaches away from the Applicants' invention. Bedard only teaches that a portion of information of a viewer profile array is removed if necessary to create room for a new channel. (See Bedard, col. 5, ll. 16-33.) Furthermore, Bedard specifically teaches storing the viewer profile array so that it may be made available to interested broadcasters. (See *Id.* at col. 8, ll. 16-21.) Bedard continues to teach that the broadcasters in turn use the information to more appropriately target certain types of programming and commercials to certain individuals or communities. (See *Id.*, emphasis added.) In other words, Bedard teaches that a viewer may be matched to the program watched information stored in the viewer's profile array, thereby, compromising the viewer's privacy. Therefore, unlike the Applicants' invention that protects a user's privacy by preventing a user to be matched to the gathered user-requested content

information, Bedard specifically teaches away from preserving a user's privacy because Bedard teaches storing the viewer profile and associated information so that the information may be given to broadcasters for targeting "certain individuals". Therefore, independent claim 100 is clearly patentable over Herz and Bedard.

Independent claims 116, 117 and 118 contain similar limitations and are patentable over Herz and Hendricks under §103 for at least the same reasons that claim 100 is patentable over Herz and Hendricks under §103. Claims 101-103 and 107-110 depend, directly or indirectly, from claim 100 and, thus, inherit the patentable subject matter of claim 100, while adding additional elements. Therefore, claims 101-103 are also patentable over the combination of Herz and Hendricks under §103.

Furthermore, as discussed above, independent claims 121 and 149 are patentable over Herz. Claims 129, 130 and 150 depend, directly or indirectly, from claims 121 and 149, respectively, and thus, inherit the patentable subject matter of claim 1, while adding additional elements. Therefore, claims 129, 130 and 150 are also patentable over the combination of Herz and Hendricks under § 103. Therefore, the rejection should be withdrawn.

B. Claims 104-107

The Office Action rejected claims 104-107 under 35 U.S.C. §103(a) as being unpatentable over Herz and Hendricks in view of U.S. Patent No. 5,223,924 to Strubbe ("Strubbe"). Applicants respectfully traverse the rejection.

Claims 104-107 depend, directly or indirectly, from claim 100 and, thus inherit the patentable subject matter of claim 100, while adding additional elements. Therefore, claims 104-107 are also patentable over Herz under §103. Furthermore, because Strubbe fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claims 104-107 are also patentable over the combination of Herz and Strubbe under §103. Therefore, the rejection should be withdrawn.

C. Claims 111-115

The Office Action rejected claims 111-115 under 35 U.S.C. §103(a) as being

unpatentable over Herz in view of U.S. Patent No. 5,848,396 to Gerace ("Gerace"). Applicants respectfully traverse the rejection.

Claims 111-115 depend, directly or indirectly, from claim 100 and, thus inherit the patentable subject matter of claim 100, while adding additional elements. Therefore, claims 111-115 are also patentable over Herz under §103. Furthermore, because Gerace fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claims 111-115 are also patentable over the combination of Herz and Gerace under §103. Therefore, the rejection should be withdrawn.

D. Claim 118

The Office Action rejected 118 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of Hendricks. Applicants respectfully traverse the rejection.

Independent claim 118 contains similar limitations and is patentable over Herz and Hendricks under §103 for at least the same reasons discussed above that claim 100 is patentable over Herz and Hendricks under §103. Therefore, the rejection should be withdrawn.

E. Claim 119

The Office Action rejected claim 119 under 35 U.S.C. §103(a) as being unpatentable over Herz and Hendricks in view of Strubbe. Applicants respectfully traverse the rejection.

Claim 119 depends from claim 118 and, thus inherits the patentable subject matter of claim 118, while adding additional elements. Therefore, claim 119 is patentable over Herz and Hendricks under §103. Furthermore, because Strubbe fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claim 119 is also patentable over the combination of Herz, Hendricks, and Strubbe under §103. Therefore, the rejection should be withdrawn.

F. Claims 125, 126, 128, 140, 142, 143, 148, 152, 154, 157, 159-161, 164, and 165

The Office Action rejected claims 125, 126, 128, 140, 142, 143, 148, 152, 154, 157, 159-161, 164, and 165 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of numerous Official Notices. Applicants respectfully traverse the rejection.

As discussed above, Under MPEP 2144.03, the board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies. In re Lee, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002), emphasis added. The Applicants respectfully submit that it may not be well known to combine the allegedly well known apparatuses and/or methods with other apparatuses and/or methods recited in the respective claims or in other claims from which the respective claims may depend. For example, presenting program recommendations in the form of a program guide that presents the user's favorite programs list (as opposed to a numerical order) in combination with providing profiles on a plurality of iTV programs, monitoring which of said plurality of iTV programs a user accesses and developing a profile of a user based only on the iTV interactions may not be well known.

Therefore, the Examiner is respectfully requested to provide documentary evidence to substantiate each Official Notice (see MPEP 2144.03(C)). Without this documentary evidence, the Applicants respectfully submit that the Official Notices must be withdrawn.

Moreover, claims 125, 126, 128, 140, 142, 143 and 148 depend from claim 121 and, thus inherit the patentable subject matter of claim 121, while adding additional elements. Therefore, claims 125, 126, 128, 140, 142, 143 and 148 are patentable over Herz under §102 and §103.

Claims 152 and 154 depend from claim 149 and, thus inherit the patentable subject matter of claim 149, while adding additional elements. Therefore, claims 152 and 154 are patentable over Herz under §102 and §103.

Claim 157 depends from claim 156 and, thus, inherits the patentable subject matter of claim 156, while adding additional elements. Therefore, claim 157 is also patentable over Herz under §102 and §103.

Claim 159 recites "developing a profile of the user based only on predetermined profile data of iTV programs accessed by the user." For the same reasons given above with respect to claim 121, claim 159 is patentable over Herz under §102 and §103.

Claims 160 and 161 depend from claim 159 and, thus inherit the patentable subject matter of claim 159, while adding additional elements. Therefore, claims 160 and 161 are patentable over Herz under §102 and §103.

Claims 164 and 165 depend from claim 163 and, thus inherit the patentable subject matter of claim 163, while adding additional elements. Therefore, claims 164 and 165 are patentable over Herz under §102 and §103. Therefore, the rejection should be withdrawn.

G. Claims 137-139 and 147

The Office Action rejected claims 137-139 and 147 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 6,005,597 to Barrett et al. ("Barrett"). Applicants respectfully traverse the rejection.

Claims 137-139 and 147 depend from claim 121 and, thus inherit the patentable subject matter of claim 121, while adding additional elements. Therefore, claims 137-139 and 147 are patentable over Herz under §102 and §103. Furthermore, because Barrett fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed by the user, claims 137-139 and 147 are also patentable over the combination of Herz and Barrett under §103. Therefore, the rejection should be withdrawn.

H. Claim 162

The Office Action rejected claim 162 under 35 U.S.C. §103(a) as being unpatentable over Herz in view of U.S. Patent No. 6,708,335 to Ozer et al. ("Ozer"). Applicants respectfully traverse the rejection.

Claim 162 depends from claim 159 and, thus inherits the patentable subject matter of claim 159, while adding additional elements. Therefore, claim 162 is patentable over Herz under §102 and §103. Furthermore, because Ozer fails to teach developing a profile of a user based only on the profiles of the iTV programs accessed

by the user, claim 162 is also patentable over the combination of Herz and Ozer under §103. Therefore, the rejection should be withdrawn.

CONCLUSION

Applicants believe that the claims are in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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